

February 27, 2003

Exemption No. 7992

Regulatory Docket No. FAA-2003-14220

Mr. Gerald S. Ross
3752 Brookhaven Club Drive
Addison, TX 75001

Dear Mr. Ross:

By letter dated December 16, 2002, you petitioned the Federal Aviation Administration (FAA) for an exemption from § 121.383(c) of Title 14, Code of Federal Regulations (14 CFR), commonly referred to as the Age 60 Rule, to the extent necessary to permit you to act as a pilot in operations conducted under part 121 after reaching your 60th birthday.

Under the authority of 49 U.S.C. § 44701(f), the FAA, in its discretion, may grant an exemption from the requirements of a regulation if it finds that such an exemption is in the public interest. The petitioner has the burden of showing that an exemption is justified and in the public interest. The FAA recognizes that those persons petitioning for an exemption from § 121.383(c) are, in general, well-qualified, experienced, and safe pilots. You have not shown how you are unique compared with other pilots who are subject to the rule or that the public interest warrants the relief requested. The issue effectively raised by your petition for exemption is whether the age limit might be extended for a general class of persons, an issue more appropriately considered in determining whether the FAA should propose to change the Age 60 Rule.

The FAA has reviewed the Age-60 rule several times to determine whether new and sufficient evidence exists to warrant amendment. Over the years, it has provided testimony, contracted independent studies, invited public comment, and held public meetings. On December 11, 1995, the FAA issued a Disposition of Comments and Notice of Agency Decisions regarding the Age 60 rule (copy enclosed). Since 1995, the FAA completed a four-part study on accident rates based on pilot age. This study is available on the FAA website:

http://www.cami.jccbi.gov/aam-400A/AGE60/60_index.html

While the FAA believes it is important to continue to collect and examine data such as the four-part study, this study does not provide sufficient facts or analyses to warrant increasing the Age 60 limit. Until the FAA can be assured that such an increase will not negatively impact the level of safety, it cannot support a rule change. Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from the issues discussed in the enclosed disposition.

AFS-03-174

In regard to your inquiry concerning the definition of "unique", we note that the original denial sent to you dated October 28, 1999, enclosed a copy of the above mentioned Disposition. We refer you to 60 FR 65977 and 65980 for a discussion of "unique". Similar to the petitioners in the Disposition, your points do not sufficiently or appreciably distinguish yourself from other similarly situated pilots.

In consideration of the foregoing, I find that a grant of exemption would not be in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, formerly §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, as amended, delegated to me by the Administrator, your petition for an exemption from 14 CFR § 121.383(c) is hereby denied.

Sincerely,

/s/

Louis C. Cusimano
Acting Director, Flight Standards Service

Enclosure